



7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72-69; NRC-2018-0250]

FirstEnergy Nuclear Operating Company; Perry Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an environmental assessment (EA) and a finding of no significant impact (FONSI) for its review and approval of the decommissioning funding plans submitted by FirstEnergy Nuclear Operating Company (FENOC) on December 17, 2012, and December 9, 2015, for the independent spent fuel storage installation (ISFSI) at Perry in Perry, Ohio.

DATES: The EA and FONSI referenced in this document are available on **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Please refer to Docket ID **NRC-2018-0250** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2018-0250**. Address questions about Docket IDs in [Regulations.gov](https://www.regulations.gov) to Jennifer Borges; telephone: 301-287-9127; e-mail: Jennifer.Borges@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the **AVAILABILITY OF DOCUMENTS** section.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Pamela Longmire, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-7465, e-mail: Pamela.Longmire@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering the approval of the decommissioning funding plans (DFPs) for the Perry ISFSI. FENOC submitted an initial DFP and an updated DFP for NRC review and approval by letters dated December 17, 2012 (ADAMS Accession No. ML12352A194), and December 9, 2015 (ADAMS Accession No. ML15343A350), respectively. The NRC staff has prepared a final EA (ADAMS Accession No. ML19162A009) in support of its review of FENOC's DFPs, in accordance with the NRC regulations in part 51 of title 10 of the *Code of Federal Regulations* (10 CFR), "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," which implement the National Environmental Policy Act of 1969, as

amended (42 U.S.C. § 4321 et seq.). Based on the EA, the NRC staff has determined that approval of the DFPs for the Perry ISFSI will not significantly affect the quality of the human environment, and accordingly, the staff has concluded that a FONSI is appropriate. The NRC staff further finds that preparation of an environmental impact statement (EIS) is not warranted.

II. Environmental Assessment

Background

The Perry ISFSI is located in Perry, Ohio. FENOC is authorized by the NRC, under License No. SFGL-51 to store spent nuclear fuel at the Perry ISFSI.

The NRC requires its licensees to plan for the eventual decommissioning of their licensed facilities prior to license termination. On June 17, 2011, the NRC published a final rule in the *Federal Register* amending its decommissioning planning regulations (76 FR 35512). The final rule amended the NRC regulation, 10 CFR 72.30, which concerns financial assurance and decommissioning for ISFSIs. This regulation now requires each holder of, or applicant for, a license under 10 CFR part 72 to submit, for NRC review and approval, a DFP. The purpose of the DFP is to demonstrate the licensee's financial assurance, *i.e.*, that funds will be available to decommission the ISFSI. The NRC staff is reviewing the DFPs submitted by FENOC on December 17, 2012, and December 9, 2015. Specifically, the NRC must determine whether FENOC's DFPs contain the information required by 10 CFR 72.30(b) and 72.30(c) and whether FENOC has provided reasonable assurance that funds will be available to decommission the ISFSI.

Description of the Proposed Action

The proposed action is the NRC's review and approval of FENOC's DFPs submitted in accordance with 10 CFR 72.30(b) and 72.30(c). To approve the DFPs, the

NRC evaluates whether the decommissioning cost estimate (DCE) adequately estimates the cost to conduct the required ISFSI decommissioning activities prior to license termination, including identification of the volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the license termination criteria in 10 CFR 20.1402 or 10 CFR 20.1403. The NRC also evaluates whether the aggregate dollar amount of FENOC financial instruments provides adequate financial assurance to cover the DCE and that the financial instruments meet the criteria of 10 CFR 72.30(e). Finally, the NRC evaluates whether the effects of the following events have been considered in FENOC's submittal: (1) spills of radioactive material producing additional residual radioactivity in onsite subsurface material; (2) facility modifications; (3) changes in authorized possession limits; and (4) actual remediation costs that exceed the previous cost estimate, consistent with 10 CFR 72.30(c).

The proposed action does not require any changes to the ISFSI's licensed routine operations, maintenance activities, or monitoring programs, nor does it require any new construction or land-disturbing activities. The scope of the proposed action concerns only the NRC's review and approval of FENOC's DFPs. The scope of the proposed action does not include, and will not result in, the review and approval of any decontamination or decommissioning activity or license termination for the ISFSI or any other part of Perry.

Need for the Proposed Action

The proposed action provides a means for the NRC to confirm that FENOC will have sufficient funding to cover the costs of decommissioning the ISFSI, including the reduction of the residual radioactivity at the ISFSI to the level specified by the applicable NRC license termination regulations concerning release of the property (10 CFR 20.1402 or 10 CFR 20.1403).

Environmental Impacts of the Proposed Action

The NRC's approval of the DFPs will not change the scope or nature of the operation of the ISFSI and will not authorize any changes to licensed operations or maintenance activities. The NRC's approval of the DFPs will not result in any changes in the types, characteristics, or quantities of radiological or non-radiological effluents released into the environment from the ISFSI, or result in the creation of any solid waste. Moreover, the approval of the DFPs will not authorize any construction activity or facility modification. Therefore, the NRC staff concludes that the approval of FENOC's DFPs is a procedural and administrative action that will not result in any significant impact to the environment.

Section 106 of the National Historic Preservation Act of 1966, as amended (54 U.S.C. § 30618) (NHPA), requires Federal agencies to consider the effects of their undertakings on historic properties. In accordance with the NHPA implementing regulations at 36 CFR part 800, "Protection of Historic Properties," the NRC's approval of FENOC's DFPs constitutes a Federal undertaking. The NRC, however, has determined that the approval of the DFPs is a type of undertaking that does not have the potential to cause effects on historic properties, assuming such historic properties were present, because the NRC's approval of FENOC's DFPs will not authorize or result in changes to licensed operations or maintenance activities, or changes in the types, characteristics, or quantities of radiological or non-radiological effluents released into the environment from the ISFSI, or result in the creation of any solid waste. Therefore, in accordance with 36 CFR 800.3(a)(1), no consultation is required under Section 106 of the NHPA.

Under Section 7 of the Endangered Species Act of 1973 (16 U.S.C. § 1531 et seq.) (ESA), prior to taking a proposed action, a Federal agency must determine

whether (i) endangered and threatened species or their critical habitats are known to be in the vicinity of the proposed action and if so, whether (ii) the proposed Federal action may affect listed species or critical habitats. The NRC has determined that the proposed action will have no effect on any listed species or their critical habitats because the NRC's approval of FENOC's DFPs will not authorize or result in changes to licensed operations or maintenance activities, or changes in the types, characteristics, or quantities of radiological or non-radiological effluents released into the environment from the ISFSI, or result in the creation of any solid waste.

Alternative to the Proposed Action

In addition to the proposed action, the NRC evaluated the no-action alternative. The no-action alternative is to deny FENOC's DFPs. A denial of a DFP that meets the criteria of 10 CFR 72.30(b) or 72.30(c) does not support the regulatory intent of the 2011 rulemaking. As noted in the EA for the 2011 rulemaking (ADAMS Accession No. ML090500648), not promulgating the 2011 final rule would have increased the likelihood of additional legacy sites. Thus, denying FENOC's DFPs, which the NRC has found to meet the criteria of 10 CFR 72.30(b) and 72.30(c), will undermine the licensee's decommissioning planning. On this basis, the NRC has concluded that the no-action alternative is not a viable alternative.

Agencies and Persons Consulted

The NRC staff consulted with other agencies and parties regarding the environmental impacts of the proposed action. The NRC provided a draft of its EA to the Ohio Emergency Management Agency, Department of Public Safety (State) by letter dated October 26, 2016 (ADAMS Accession No. ML17142A072), and gave the State 30 days to respond. The State did not respond. The NRC also consulted with the Fish and Wildlife Service by letter dated October 26, 2016 (ADAMS Accession No.

ML16301A368). However, the NRC staff has determined that consultation under ESA Section 7 is not required because the proposed action is administrative/procedural in nature and will not affect listed species or critical habitat (ADAMS Accession No. ML17135A062).

III. Finding of No Significant Impact

The NRC staff has determined that the proposed action, the review and approval of FENOC's initial and updated DFPs, submitted in accordance with 10 CFR 72.30(b) and 72.30(c), will not authorize or result in changes to licensed operations or maintenance activities, or changes in the types, characteristics, or quantities of radiological or non-radiological effluents released into the environment from the ISFSI, or result in the creation of any solid waste. Moreover, the approval of the DFPs will not authorize any construction activity, facility modification, or any other land-disturbing activity. The NRC staff has concluded that the proposed action is a procedural and administrative action and as such, that the proposed action will not have a significant effect on the quality of the human environment. Therefore, the NRC staff has determined not to prepare an EIS for the proposed action but will issue this FONSI.

IV. Availability of Documents

| Date | Document | ADAMS Accession No. |
|-------------------|---|---------------------|
| December 17, 2012 | Submission of FENOC decommissioning funding plan | ML12352A194 |
| December 9, 2015 | Submission of FENOC triennial decommissioning funding plan | ML15343A350 |
| February 1, 2009 | Environmental Assessment for Final Rule - Decommissioning Planning | ML090500648 |
| May 15, 2017 | Note to File re Sct 7 Consultations for ISFSI DFPs | ML17135A062 |
| October 26, 2016 | Consultation Letter: ML16301A233-RLSO | ML17142A072 |
| October 26, 2016 | NRC Preliminary Determination of No Effects Regarding Perry Nuclear Independent Spent Fuel Storage Installation Decommissioning Funding Plan. | ML16301A368 |
| June 9, 2019 | NRC staff's Final EA for the approval of the decommissioning funding plan | ML19162A009 |

The following documents, related to this notice, can be found using any of the methods provided in the following table. Instructions for accessing ADAMS were provided under the **ADDRESSES** section of this document.

Dated at Rockville, Maryland, this 31st day of July, 2019.

For the Nuclear Regulatory Commission.

John B. McKirgan,
Chief,
Spent Fuel Licensing Branch,
Division of Spent Fuel Management,
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